



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 3884-99
28 December 1999

[REDACTED]

Dear Mr. [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 21 April 1994 after more than eight years of prior active service. Your record reflects that on 27 June 1997 you received nonjudicial punishment (NJP) for failure to obey a lawful order and disrespect. On 16 September 1997 you received a second NJP for an unauthorized absence of a day and failure to obey a lawful order. The punishment imposed consisted of a reduction in paygrade from STS2 (E-5) to STS3 (E-4).

On 16 December 1997 the commanding officer recommended that you be separated with a general discharge by reason of misconduct due to commission of a serious offense. When informed of the recommendation, you elected to waive your right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and you received a general discharge on 19 December 1997.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your contentions concerning the 16 September 1997 NJP. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge. The Board especially noted the fact that you were the subject of two disciplinary actions as a second class petty officer. In this regard, individuals discharged by reason of misconduct are often discharged under other than honorable conditions. Therefore, the Board concluded that you were fortunate to receive a general discharge and no change to the discharge is warranted.

The Board noted your contention and the documentation you submitted but found they were insufficient to warrant removal of the 16 September 1997 NJP or restoration to STS2. The Board presumed that the commanding officer acted reasonably in concluding, based on the evidence before him, that you committed the offenses. In this regard, it should be noted that you never contacted the boat about your absence and then left the boat the next day without first obtaining permission.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director